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ACTION 10-13

INFO OCT-01 EUR-12 NEA-10 ISO-00 AF-08 ARA-06 EA-07

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DEPARTMENT OF STATE A/CDC/MR

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TS AUTH. REASON(S)

ENDORSE EXISTING MARKINGS ☐

DECLASSIFIED ☒ RELEASABLE ☒

RELEASE DENIED ☐

PA or FOI EXEMPTIONS

JAMES ROBINSON

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FM USMISSION USUN NEWYORK
TO SECSTATE WASHDC PRIORITY 539
INFO AMEMBASSY MOSCOW PRIORITY
AMCONSUL LENINGRAD PRIORITY
AMEMBASSY BAGHDAD PRIORITY

C O N F I D E N T I A L USUN 5097

DEPT PASS JUSTICE - FRANK NILAND AND

E.O. 11652: GDS

TAGS: PFOR, ASEC, UR, IZ

SUBJ: VISIT TO US ATTORNEY FISKE REGARDING SENTENCING OF
JDL MEMBERS

REF: USUN 4341, 4667 AND 4919; STATE 226781, BAGHDAD 1577,
STATE 263178

1. DEPUTY ASST SECRETARY SOBER AND OTHER MEMBERS OF USUN
STAFF VISITED US ATTORNEY FISKE ON NOVEMBER 8, 1976 IN
ORDER TO DISCUSS CONCERN WHICH HAD EMERGED OVER FACT
THAT JDL MEMBERS WHO PLEADED GUILTY TO VARIOUS CHARGES
CONTAINED IN INDICTMENT WOULD NOT BE PROSECUTED ON THE
SPECIFIC CHARGES CONCERNING THE ACTUAL SHOOTINGS
AT SOVIET MISSION AND RIVERDALE PROPERTIES.

2. FISKE ASSURED SOBER THAT HIS OFFICE HAD OBTAINED BEST
RESULTS POSSIBLE WITH THE EVIDENCE THEY HAD AVAILABLE.
HE POINTED OUT THAT HE HAD NO DIRECT EVIDENCE THAT ANY
OF DEFENDANTS HAD FIRED RIFLES EITHER IN RIVERDALE OR
ON 67TH STREET. HE SAID THAT HE AND HIS ASSOCIATES HAD
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BEEN AWARE OF FOREIGN POLICY ASPECTS OF CASE AND HAD KEPT THEM IN MIND DURING INVESTIGATION AND IN DEALING WITH DEFENDANTS. HE FURTHER SAID THAT WITH EXCEPTION OF ONE DEFENDANT, THE COURTS ON WHICH HE ACCEPTED GUILTY PLEAS CARRIED SAME MAXIMUM PENALTIES AS THOSE ON WHICH PROSECUTION DROPPED AND THAT FEDERAL JUDGES DO NOT IMPOSE CONSECUTIVE SENTENCES.

3. IN RESPONSE TO SOBER'S QUESTION REGARDING PRE-SENTENCE STATEMENT, TO BE MADE TO JUDGE MACMAHON, FISKE STATED THAT ALL FEDERAL JUDGES GUARDED THEIR PREROGATIVES VERY JEALOUSLY. HE SAID U.S. ATTORNEY'S OFFICE DOES NOT RECOMMEND SENTENCES AND COULD NOT TELL JUDGE IN EXPRESS TERMS ABOUT EFFECTS OF ACTIONS OF DEFENDANTS ON US FOREIGN RELATIONS. HOWEVER, IN VIEW OF SOBER'S ENCOURAGEMENT, HE PROMISED THAT ASST. US ATTORNEY JAFFE WOULD CONVEY VIEWS TO JUDGE BY STRESSING SERIOUS NATURE OF ACTIONS OF DEFENDANTS AS CONTAINED IN PROBATION REPORT AND MAKING A GENERAL STATEMENT ON WHY CASE IS SO IMPORTANT.

4. FISKE ADVISED THAT IN HIS JUDGMENT, KELNER AND ROMBON WOULD BE SENTENCED TO TERMS IN PRISON. SINCE MACINTOSH HAD COOPERATED WITH AUTHORITIES, HE WAS NOT CERTAIN ABOUT HIS SENTENCE. HE ALSO FELT WEINGARTEN AND EHRLICH WERE MINOR PLAYERS AND MIGHT NOT BE SENTENCED TO TERMS IN PRISON.

5. IN VIEW OF FACT THAT VARYING SENTENCES WOULD BE METED OUT, SOME LARGE AND SOME SMALL, FISKE SAID HE NOW FELT THAT IT WOULD BE BETTER TO HAVE ALL DEFENDANTS SENTENCED AT SAME TIME RATHER THAN AT DIFFERENT TIMES, PARTICULARLY SINCE THOSE CURRENTLY SCHEDULED TO COME UP FIRST WERE THOSE MOST LIKELY TO RECEIVE LIGHTER SENTENCES. FISKE PROMISED TO TRY TO CONSOLIDATE SENTENCING, PROBABLY ON DATE IN FIRST HALF OF DECEMBER. FISKE ALSO SUGGESTED THAT SOVIETS MIGHT LIKE TO VISIT COURT AND OBSERVE SENTENCING.

6. SOBER WILL MAKE STATEMENT IN COMMITTEE ON RELATIONS WITH HOST COUNTRY AT ITS MEETING ON NOVEMBER 9, 1976, WITH REGARD TO COURT ACTION AGAINST JDL MEMBERS.

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